

**AGREEMENT
BETWEEN
LAKE COUNTY, FLORIDA
AND
BROWN & BROWN OF FLORIDA, INC.
FOR
BROKER FOR RISK MANAGEMENT SERVICES**

RFP 13-0018

THIS AGREEMENT, made and entered into by and between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the "Client" or the "County", and Brown & Brown of Florida, Inc., a Florida corporation, hereinafter referred to as the "Broker".

WITNESSETH:

WHEREAS, the Client desires to engage the services of Broker to provide risk insurance services during the term of this Agreement;

WHEREAS, Broker is qualified and desires to provide the aforementioned services on behalf of the Client in accordance with this Agreement; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto do mutually agree as follows:

1. **RECITALS.** The foregoing recitals are true and correct and incorporated herein by reference.

2. **TERM.** This Agreement shall be effective **May 1, 2013** and shall continue through **September 30, 2016**, unless terminated as set forth herein. This Agreement may be renewed for up to two (2) successive one-year renewals.

3. **PRICE ADJUSTMENT.** No price increase shall be made during the initial term of this Agreement. Prior to exercising any renewal option, the Client may consider any appropriate adjustment, upward or downward, to price based on changes in the following pricing index: CPI-W. It is each individual party's responsibility to request any pricing adjustment in writing under this provision. A written request for adjustment should be submitted from the requesting party to the other thirty (30) calendar days prior to expiration of the initial contract term. The adjustment request must clearly substantiate the requested change. The written request for adjustment should not be in excess of the relevant pricing index change. If no adjustment request is received from the Broker, and if the Client has not in turn initiated any downward adjustment based on index changes, the Client will assume that the Broker has agreed that the renewal term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a renewal term shall not be considered.

The Client reserves the right to reject any written price adjustments submitted by the Broker and/or to not exercise any otherwise available option period based on such price adjustments. Continuation of the contract beyond the initial period, and any option subsequently exercised, is a Client prerogative, and not a right of the Broker. This prerogative will be exercised at least thirty (30) calendar days prior to expiration of the initial contract term.

4. **SCOPE OF SERVICES.** On the terms and conditions set forth in this Agreement, the Client hereby engages the Broker to perform the services more specifically detailed in **Exhibit A**, Scope of Services, attached hereto and incorporated herein by reference (the "Services").

5. **BROKER FEES.** The Broker shall receive as consideration for the Services performed hereunder the following amounts:

• May 1, 2013-September 30, 2014	\$55,000
• October 1, 2014-September 30, 2015	\$55,000
• October 1, 2015-September 30, 2016	\$55,000

In the event that an insurance policy selected by the Client cannot be written without commission, or if removing such commission to Broker results in no reduction in the Client's cost, then Broker may earn the commission for that particular policy, if approved in advance by the Client, separately and in addition to, the fee paid to Broker by the Client. Broker agrees to disclose to the Client all commissions payable to Broker by all insurers proposing coverage. The Broker has been approved to receive a commission on the following policies:

- Storage Tank

Except as otherwise provided above, in the event that Broker receives commission payments in connection with the placement or procurement of the insurance for County, the amount of such payments will be credited against the balance of the Broker Services Fee owed to Broker pursuant to this Agreement, and any commission amount in excess of such balance shall be promptly paid to County within 30 days after receipt of such commission by Broker. In addition, it is understood and agreed that Broker, or Broker's corporate parent, subsidiaries or affiliated entities, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. Such contingent payments or allowances are not subject to this Agreement, and will not be credited against the balance of the Broker Services Fee owed to Broker pursuant to this Agreement or paid to County.

The following language is required in any written fee agreement between Broker and any customer:

If Broker is being compensated based upon a fixed dollar amount or fixed percentage fee, meaning that this agreement specifies compensation and states that additional compensation will not be paid to Broker or any other party, then additional compensation is strictly prohibited. Similarly, if this agreement sets compensation based upon a fixed dollar amount or fixed percentage fee, and this agreement specifies that additional compensation shall be credited to the County, then any additional compensation to any party must be promptly returned to the County. If this agreement is not based upon such fixed fee terms, then no owned or affiliated party, including brokers, wholesale brokers or third party intermediaries, may accept any type of compensation without full disclosure by Broker to the County of the dollar amount or percentage of compensation prior to binding coverage.

Invoices shall be submitted on or about October 1st of each contract year to the Human Resources Department at P.O. Box 7800, Tavares, Florida 32778. Invoices shall also include the annual risk insurance premiums for each Fiscal Year. The Client shall not be invoiced the Broker fee without also being invoiced for the annual risk insurance premiums. Invoices shall be paid in accordance with Chapter 218, Part VII, Florida Statutes, known as the Florida Prompt Payment Act.

Invoices shall contain the contract and/or purchase order number, date, and location of delivery of service, and confirmation of acceptance of the goods or services by the appropriate Client representative. Failure to submit invoices in the prescribed manner will delay payment.

6. **BROKER'S OBLIGATIONS.**

A. **Furnishing of Materials and Labor.** The Broker shall, for the consideration set forth herein, and at its sole cost and expense, as an independent contractor, provide all labor, materials, equipment, tools, supplies and incidentals necessary to perform the Scope of Services.

B. **Standard of Care.** The Broker shall furnish, provide or fulfill its obligations under this Agreement in a professional manner to the reasonable satisfaction of the duly authorized representatives of the Client, who shall have, at all times, full opportunity to monitor the services performed under this Agreement.

C. **Indemnification.** The Broker understands that in performing the Services hereunder it will be responsible for the consequences of its own actions. Therefore, the Broker agrees that it will indemnify, defend and hold harmless the Client as well as the Client's commissioners, officers, directors, employees, agents and representatives and each of the heirs, executors, successors and assigns of each of the foregoing from, against and in respect of all claims, liabilities, obligations, losses, costs, expenses, penalties, fines and judgments (at equity or at law) and damages whenever arising or accruing (including, without limitation, amounts paid in settlement, costs of investigation and reasonable attorneys' fees and expenses) to the extent arising out of or caused by the Broker's performance of the Services hereunder, including, without limitation, any acts or omissions with respect thereto.

D. **Additional Information.** The Broker, at the request of the Client, shall further provide to the Client such other information as the Client may reasonably request from time to time. Further, the Broker shall at the Client's request meet and have its employees and representatives meet with the Client from time to time, regarding any of the Services to be rendered under the Agreement.

E. **E-verify.** Broker acknowledges and agrees Broker shall utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of:

1. All persons employed by the Broker during the term of this Agreement to perform employment duties within Lake County; and
2. All persons, including subcontractors, assigned by the Broker to perform work pursuant to the contract.

F. **Key Contractor Personnel.** The Broker represents in executing this Agreement that each person listed or referenced in the Broker's proposal submitted in response to RFP 13-0018 is available to perform the services described for the Client, barring illness, accident, or other unforeseeable events of a similar nature in which case the Broker shall promptly provide a qualified replacement. In the event the Broker desires to substitute personnel, the Broker shall propose a person with equal or higher qualifications and each replacement person is subject to prior written approval of the Client. In the event the requested substitute is not satisfactory to the Client and the matter cannot be resolved to the satisfaction of the Client, the Client reserves the right to terminate this Agreement for cause.

7. **INSURANCE.** Broker shall provide general liability insurance on forms no more restrictive than the latest edition of the Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/\$2,000,000
Products-Completed Operations	\$2,000,000
Personal & Adv. Injury	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

Automobile liability insurance, including non-owned autos with the following minimum limits and coverage:

Combined Single Limit	\$1,000,000
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Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers compensation insurance, Broker must provide a notarized statement that if an injury occurs they will not hold the Client responsible for any payment or compensation.

Employer's Liability insurance with the following minimum limits and coverages:

Each Accident	\$1,000,000
Disease-Each Employee	\$1,000,000
Disease-Policy Limit	\$1,000,000

Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear on the general liability policy.

Certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the Client of any change or cancellation of the required insurance.

Certificate(s) of insurance shall identify the contract number in the Description of Operations section of the Certificate.

Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE
BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

Broker shall be responsible for subcontractors, if any, and their insurance.

All deductibles or self-insured retention shall appear on the certificate(s).

All insurance companies must be authorized to transact business in the State of Florida.

The Client shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Broker.

Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

Neither approval by the Client of any insurance supplied by Broker, nor a failure to disapprove that insurance, shall relieve Broker of full responsibility of liability, damages, and accidents as set forth herein.

If it is not possible for the Broker to certify compliance, on the certificate of insurance, with all of the above requirements, then the Broker is required to provide a copy of the actual policy endorsement(s) providing the required coverage and notification provisions.

8. **DEFAULT.** The failure of either party to comply with any provision of this Agreement will place that party in default. Prior to terminating the Agreement, the non-defaulting party will notify the defaulting party in writing. This notification will make specific reference to the provision(s) the defaulting party failed to comply with, the exact nature of the default, and the action that needs to occur to correct the default. The non-defaulting party will give the defaulting party a minimum of twenty (20) business days to correct the default. The County Manager or designee shall be authorized to provide the written notice described herein on behalf of the Client. If the default is not corrected within the allotted time, the non-defaulting party shall be permitted to terminate this Agreement, effective upon the receipt by the defaulting party of a written termination notice.

9. **TERMINATION.**

A. This Agreement may be terminated by the Client for convenience upon thirty (30) calendar days advance written notice to the other party; but if any work or service or task hereunder is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the Client until said work or Service(s) or task(s) is completed and accepted. In the event this Agreement is terminated or cancelled upon the request and for the convenience of Client with the required thirty (30) day advance written notice, Client shall reimburse Broker for actual work satisfactorily completed.

B. The Client reserves the right to terminate this Agreement, in part or in whole, or place the Broker on probation in the event the Broker fails to perform in accordance with the terms and conditions stated herein. The Client further reserves the right to suspend or debar the Broker in accordance with the appropriate County ordinances, resolutions or other administrative orders. Termination costs, if any, shall not apply. The thirty (30) day advance notice requirement is waived in the event of termination for cause.

C. If either party files a petition for bankruptcy or a petition or answer seeking reorganization, becomes or is insolvent or bankrupt, has a receiver appointed for its benefit, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, the other party may immediately terminate this Agreement

D. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be cancelled and the Broker shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/Tasks delivered under this Agreement. The Broker shall be given ten (10) business days notice of cancellation due to unavailability of funds.

10. **NOTICES.** Whenever written notice is required under the terms of this Agreement, it shall be delivered either in person or by registered mail to the appropriate party. Notice by registered mail shall be addressed as follows:

BROKER

Brown & Brown of Florida, Inc.
Attn: Travis Childers, Acct. Executive
1300 Citizens Blvd., Ste. 100
Leesburg, FL 34749

CLIENT

Lake County BCC
315 W. Main Street
Tavares, FL 32778
ATTN: Director, Human Resources

11. **NON-ASSIGNMENT.** Client has selected the Broker to render the Services based in substantial part on the personal qualifications of the Broker; as such, the Broker may not assign or transfer any right or obligation of this Agreement in whole or in part, without the prior written consent of Client, which consent may be granted or withheld in the sole discretion of Client. Any direct or indirect change in the ownership (legal or equitable) of a controlling and/or a majority interest of the Client, whether such change in ownership occurs at one time or as a result of sequential incremental changes, and whether said change is by sale, assignment, hypothecation, bequest, inheritance, operation of law, merger, consolidation, reorganization or otherwise, shall be deemed an assignment of this Agreement subject to the consent of Client. The Broker may utilize subcontractors as otherwise permitted and provided herein. Any assignment or transfer of any obligation under this Agreement without the prior written consent of Client shall be void, *ab initio*, and shall not release the Broker from any liability or obligation under this Agreement, or cause any such liability or obligation to be reduced to a secondary liability or obligation.

12. **NON-TRANSFER OF POWERS.** Nothing contained in this Agreement shall be construed to constitute a Transfer of Powers in any way whatsoever. This Agreement is solely an Agreement for provision of services.

13. **PUBLIC RECORDS.** Client is a political subdivision of the State and is subject to Florida's Public Records Act, Chapter 119, Florida Statutes. It is possible that the Broker, as a result of this Agreement, may also be subject to the Public Records Act and, if so, the Broker will promptly respond in accordance with said statute to any and all third party requests for "public records," as that term is defined in the Public Records Act. In regard to any such request, the Broker will promptly notify Client. Client's determination as to the necessity of such response shall be presumptively correct.

14. **SEVERABILITY.** Should any provision of this Agreement be declared invalid by a Court of competent jurisdiction, same shall be deemed stricken herefrom and all other terms and conditions of this Agreement shall continue in full force and effect as if the invalid provision had never been made a part hereof.

15. **NON-WAIVER.** No delay by either party in enforcing any covenant or right hereunder shall be deemed a waiver of such covenant or right, and no waiver of any particular provision hereof shall be deemed as waiver of any other provision or a continuing waiver of such particular provision, and except as so expressly waived, all provisions hereof shall continue in full force and effect.

16. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding of the parties with respect to provision of services. It may not be modified nor any of its provisions waived unless such modification and/or waiver is in writing and is agreed to and signed by both parties.

17. **THIRD PARTY BENEFICIARIES.** There are no third party beneficiaries of this Agreement, either intended or implied.

18. **RIGHT TO AUDIT.** The County reserves the right to require Broker to submit to an audit by any auditor of the County's choosing. Broker shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. Broker shall retain all records pertaining to this Agreement and upon request make them available to the County for five (5) years following expiration of the Agreement. Broker agrees to provide such assistance as may be necessary to facilitate the review or audit by the County to ensure compliance with applicable accounting and financial standards. This provision is hereby considered to be included within, and applicable to, any subcontractor agreement entered into by the Contractor in performance of any work hereunder.

If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by the Broker to the County in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time, but in no event shall the time exceed ninety (90) days, from presentation of the County's audit findings to the Contractor.

19. **PUBLIC ENTITY CRIMES.** A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, section 287.017, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Broker certifies that it is not now on the convicted vendor list, and acknowledges that if Broker is later placed on such list, the Client shall have the option to terminate this Agreement.

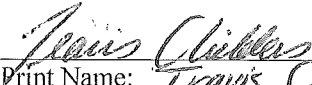
20. **EXHIBITS.** This Agreement contains the following Exhibits:

Exhibit A Scope of Services

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board Action on the 23 day of April, 2013 and by Broker through its duly authorized representative.

BROKER

Brown & Brown of Florida, INC.

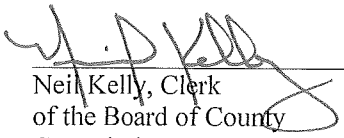

Print Name: Travis Childers
Title: Agent / All. Executive


This 3 day of April, 2013

COUNTY

ATTEST:

LAKE COUNTY, through its
BOARD OF COUNTY COMMISSIONERS


Neil Kelly, Clerk
of the Board of County
Commissioners of Lake
County, Florida


Leslie Campione
Chairman

This 13th day of May, 2013

Approved as to form and legality:



Sanford A. Minkoff
County Attorney

EXHIBIT A: Scope of Services

1. Issue and deliver valid, timely, and cost effective binders for insurance policies to be purchased by the County. Assure that insurance policies being purchased will be delivered in accordance with the proposal(s) that were negotiated and/or accepted by the County. Assure that the policies issued reflect no lesser policy terms, conditions, coverage amounts and options that were accepted by the County, and immediately correct policy deficiencies before delivery to the County.
2. Prepare an easy to read chart of the County's insurance program including limits, pricing and coverages by layer.
3. Coordinate with the County to assure that up-to-date exposure data is incorporated into the issuance of newly purchased policies.
4. Promptly and accurately process insurance policy endorsements and other change requests as needed.
5. Coordinate loss control/safety services desired by the County that are available from the insurers whose policies were purchased through the Broker.
6. Assist the County in filing claims with insurers from whom the County has purchased policies through the Broker.
7. Broker will provide the County with no-cost safety-related training or obtain funds from reinsurers for Lake County safety training purposes.
8. Broker will participate in an annual, and bi-annual if needed, claims meeting with the County and other relevant parties, e.g., third-party administrator staff, legal counsel, etc. The County will not pay any additional costs/fees for the Broker's participation in the annual/bi-annual claims meetings (face-to-face or conference calls).
9. Issue Certificates of Insurance (COI) as may be required by the County on the same or next business day.
10. Monitor and notify the County of major developments regarding the insurance industry or the County's insurers or policies that may affect the County.
11. Respond to coverage or other insurance policy questions as may be presented by the County on the same or next business day.
12. At least annually, review with the County staff the premium/claims history of the County for the policies purchased.

13. Coordinate with the County approximately 4 to 5 months prior to renewals on giving estimates of renewal changes in premium, coverage, policy terms, etc. and in collecting needed renewal rating and background information.
14. Endeavor to present renewal pricing and policy changes 90 days prior to renewal.
15. If permitted by the County, market coverages and other insures, and deliver to the County a listing of all companies contacted, detailed spreadsheets of all proposals received and all rejection letters.
16. Fully disclose insurance policy premiums and commissions and other remuneration received for the sale of such policies.
17. Permit the County, or assigned, to conduct an audit of all remuneration/revenues attributable to the County's account and to fully cooperate with persons designated by the County to perform such audit.
18. Analyze the County's exposures yearly and as needed.
19. Annually provide assessments of current conditions in the insurance markets.
20. Analyze proposals and quotes received from various insurance companies to ensure that the highest level of coverage is obtained and negotiate with insurers to obtain the best prices, terms and conditions possible.
21. Coordinate notice of claims and/or losses with carriers and act as a facilitator during the claims process.
22. Report any claims to the insurance carrier and monitor the handling and disposition of the claim to assure the County's policy rights are protected.
23. Provide an annual report summarizing all insurance coverage in place, anticipated market conditions, recommendations and strategies.
24. Assist in the preparation of documents and exhibits to be provided to management and/or the Board of County Commissioners during annual renewal of insurance policies, and attend relevant meetings as requested.
25. Assist in the preparation of Request for Proposals (RFPs), and analyze and provide recommendations regarding other document containing insurance requirements, workers' compensation and employer liability issues, etc.
26. Coordinate annual Reasonableness Letter with FEMA regarding the County's property insurance program.
27. Prepare and review RFP/contract insurance limits and wording.

28. Assist the County in maintaining and updating schedules of values.
29. Respond to telephone calls from County staff on the same or next business day.
30. Any additional services agreed upon by the County and Broker.

Performance Guarantee

In the event that the Services do not materially conform to the specifications, the County reserves the right to terminate the contract in accordance with Section 8, Default. The performance guarantees listed below shall prevail for the full term of the contract from May 1, 2013 through September 30, 2016. The Broker will be responsible for tracking the service indicators and supplying the County with the Broker response percentages achieved on an annual basis.

2013-2016 Performance Guarantee Matrix

Service Indicator	Vendor Response	Financial Penalty
Projection of Renewal Premiums (within 5% of actual premiums)	100%	16.67% of total penalty
Timely Delivery and Quality of Final Products including annual report, renewal premiums, etc.	99%	16.67% of total penalty
Timely response time for returning calls concerning coverages or other insurance policy questions from County staff (within the same or next business day).	99%	16.67% of total penalty
Timely delivery of Certificates of Insurance (COI) as required by the County (within the same or next business day).	99%	16.67% of total penalty
Quality of safety-related training or availability of funds from reinsurers for Lake County safety training purposes.	95%	16.67% of total penalty
Timely completion of annual Reasonableness Letter with FEMA regarding the County's property insurance program.	99%	16.67% of total penalty
Total Penalty (15% of broker flat fee)		\$8,250